IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 20/10/2004

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THE HONOURABLE MR.JUSTICE A.K.RAJAN

Writ Petition No.19591 of 1997

N.Rajasundaram Petitioner

-Vs-

1. Tamil Nadu water supply and
Drainage Board, rep. by Managing Director
Chennai 600 005.

2.The Managing Director
Tamil Nadu Water Supply and
Drainage Board,
Chennai 600 005. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to direct the respondents to drop the action taken by them which culminated in B.P.Ms.No.515 dated 20.11.1999.

For Petitioner : Mr.Rita Chandrasekaran
for Aiyer and Dolia

For Respondents : No apperance

:ORDER

This writ petition has been filed for the issuance of a writ of Certiorarified Mandamus, to direct the respondents to drop the action taken by them which culminated in B.P.Ms.No.515 dated 20.11.1999.
2. The petitioner is the Executive Engineer working in TWAD Board. Charges were framed against him for not passing the bill and delayed payment for 10 days. Therefore, it was presumed that he alleged to have demanded bribe from the Contractor for digging bore-well. Enquiry was conducted and it is found true that the charges leveled against the petitioner was true. After following the rules and after giving second show cause notice, the punishment of stoppage of increment for three years with cumulative effect was imposed. Therefore, the charges for which this major punishment has been given is for nonpassing the bill for 10 days. It is a common knowledge that no bill will be passed by the Government Department on the date when it is presented. Merely because there is a delay of 10 days in passing the bill, it cannot be

stated that the person responsible to pass the bill had demanded bribe. The allegation of demand of bribe is very serious in nature that cannot be lightly framed. In fact, there is no specific allegation that he demanded bribe. Because he did not pass the bill for 10 days, it has been presumed that there was a demand of bribe.

3. Considering the way in which the Government Department works, the delay of 10 days cannot be concluded as exorbitant delay or willful delay. Therefore, considering the facts and circumstances of the case, the punishment awarded does not appear legally sustainable. This Court is also of the view that the punishment awarded is excessive for the alleged misconduct viz., the delay of 10 days in passing the bill. That apart, there is no reason to impose a major punishment for a minor act of misconduct. The delay of 10 days cannot be considered as such a grave misconduct as to invite the major punishment of stoppage of increment for three years with cumulative effect. Hence, the order is not legally sustainable as it disproportionate to the alleged misconduct.
4. In the result, the writ petition is allowed as prayed for. The impugned order is set aside. No costs.

Index :yes
Internet:yes
ksr

To

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